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UNITED STATES DISTRICT COURT

MAR 28 2023

for the

U.S. District Court
Middle District of TNMIDDLE District of TENNESSEENASHVILLE Division**03-23 0277**

Case No.

(to be filled in by the Clerk's Office)

LEOPOLD MPWINAYO

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

DARON HALL, SHERIFF'S

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS
(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Leopold m Pawmayo

All other names by which
you have been known:

260365

ID Number

Current Institution

DAVIDSON COUNTY SHERIFF'S OFFICE

Address

P.O. BOX 196383Nashville

City

TN

State

37219

Zip Code

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

DARON HALLJob or Title (*if known*)SHERIFF'S

Shield Number

Employer

DAVIDSON COUNTY SHERIFF'S OFFICE

Address

P.O. BOX 196383NASHVILLE

City

TN

State

37219-6383

Zip Code



Individual capacity



Official capacity

Defendant No. 2

Name

Job or Title (*if known*)

Shield Number

Employer

Address

City

State

Zip Code



Individual capacity



Official capacity

Defendant No. 3

Name

Job or Title (if known)

Shield Number

Employer

Address

City

State

Zip Code

☐

Individual capacity

☐

Official capacity

Defendant No. 4

Name

Job or Title (if known)

Shield Number

Employer

Address

City

State

Zip Code

☐

Individual capacity

☐

Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐

Federal officials (a *Bivens* claim)

☒

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

First and Fourteenth amendments to the United States constitution and,

Tennessee Constitution, Article 1 section 19

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

ATTACHMENT

STATEMENT OF CLAIM

Plaintiff Leopold M Pawinayo, arrested 9/10/2019, and confined at Davidson County Sheriff's office lead by defendant Daron Hall, plaintiff had court scheduled more than 105 times only been on front of judge or court room only 3 times otherwise he been send back without seen or talk to anyone, on 2/16/2022 Plaintiff filed or requested self representation to criminal court Division 5 and wrote letter asked case manager certified mail materials and plaintiff signed inmate fund account charge receipt. plaintiff handled mail to mail clerk with Article # 7019.0160.0000.6971.7190 included Return signed receipt, this mail never get to post office for processing or Return receipt, or returned mail back to the plaintiff. On 8/3/2023, plaintiff filed motion to court for Speedy Trial, or in the Alternative, Dismissal because he have Jury trial set for hearing on 10/17/2022 and was second jury trial continued without notify plaintiff or informed him why was continued, also send by certified mail with returned sign receipt, Article # 7019 0160 0000 6971 7213, This mail never reach to court or returned back to plaintiff, or received the signed receipt. On 2/15/2023 plaintiff appeared to court and judge asked he to write statements regarding ~~the~~ his attorneys representation before she can allow him to representing himself, be at court before 7-5-2023

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plaintiff written the statement as court requested, and asked case manager for certified mail materials and plaintiff handed to DCSO mail clerk on 3/3/2023 until this time the mail never reached to post office or to court neither turned back to me. ALL these certified mail cost plaintiff \$ 7.05 each certified mail. is another certified mail was sent to federal court on 01-28-2021, this also never get in court or returned back to me. was cost \$ 8.20 charged from plaintiff account, never refunded his money.

plaintiff filing this suit against Defendant for wrongfully prevented plaintiff from mailing certain legal certified mail letters to court, Violated his rights under U. S. Const. Amend. 1, and Tennessee Constitution Article 1, section 19.

N/A

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

Destroyed my legal mail, Denied me to access to court

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):



Pretrial detainee



Civilly committed detainee



Immigration detainee



Convicted and sentenced state prisoner



Convicted and sentenced federal prisoner



Other (explain) _____

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.

See Attachment

- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

Downtown Detention Center, Correction Development for male

C. What date and approximate time did the events giving rise to your claim(s) occur?

2/16/2022, 8/03/2022, 3/7/2023

D. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

See Attachment

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Pain and suffering both physical and emotional distress plaintiff has suffered irreparable harm and has no adequate remedy at law. Defendant will continue to engage in holding or destroying plaintiff mails unless enjoined from doing so in the future.

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

Plaintiff requests this court to enter judgement as follows:

A. Declaring as unconstitutional to refused to mail or to destroying of the plaintiff mail or legal mail to court.

B. Entering a preliminary and permanent injunction restraining and ~~enjoining~~ enjoining the defendant from undertaking, enforcing, maintaining, or adopting any policies, procedures, practices, or acts of in refusing or destroyed pretrial detainees legal mails

C. Awarding such other and further relief that this court may deem just, proper and equitable.

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☒ Yes ✓

☒ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Downtown Detention Center, Correction development
for male

B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☒ Yes

☐ No

☐ Do not know

C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☒ Yes

☐ No

☐ Do not know

If yes, which claim(s)?

Mail claim

- D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☒ Yes

☐ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☒ Yes

☐ No

- E. If you did file a grievance:

1. Where did you file the grievance?

(1) Downtown Detention Center (DDC)

(2) Correction Development for male (CDM)

2. What did you claim in your grievance?

asked what or where my mail went or what happened to it.

3. What was the result, if any?

The DCSO staff never provided me the names who answered the response, the USPS picked up the mail Monday ~~than~~ Friday, your mail has picked up.

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. (Describe all efforts to appeal to the highest level of the grievance process.)

The mail send out or picked up.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

No longer paper filing grievances

unamates filing Grievances electronically, via kios or tablets

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

Court have to requests from jail ~~offices~~
Officials.

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☒ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s)

N/A

Defendant(s)

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

N/A

6. Is the case still pending?

☐ Yes

☒ No

If no, give the approximate date of disposition.

N/A

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

N/A

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

☐ Yes

☒ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

N/A

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

N/A

4. Name of Judge assigned to your case

N/A

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☒ No

If no, give the approximate date of disposition

N/A

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

IX. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 3/21/2023

Signature of Plaintiff: [Signature]

Printed Name of Plaintiff: Leopold M Pawinayo

Prison Identification #: 260365

Prison Address: P.O. Box 196383

Nashville, TN 37219-6383
City State Zip Code

B. For Attorneys

Date of signing: _____

Signature of Attorney: _____

Printed Name of Attorney: _____

Bar Number: _____

Name of Law Firm: _____

Address: _____

City State Zip Code

Telephone Number: _____

E-mail Address: _____

Leopold MPaw.nayo
BCA#260365
DCSO
P.O. Box 196383
Nashville, TN 37219-6383

legal mail

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MAR 28 2023

U.S. District Court
Middle District of TN

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION
719 Church Street
Nashville, TN 37203

legal mail



Gent from a correctional institution.
Inmate is responsible for contents.

Legal mail